

REMARKS

Claims 17 – 19 and 22- 26 are now pending in the application. By this amendment, claims 17 and 22 are amended and claims 20 and 21 are canceled. Claims 23-26 are added for the Examiner's consideration. The above amendments and new claims do not add new matter to the application and are fully supported by the specification. For example, support for the amendments and new claims is provided in at least Figures 17 – 19 and the description thereof. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

***35 U.S.C. §102 Rejection***

Claims 17 - 22 were rejected under 35 U.S.C. §102(e) for being anticipated by U.S. Patent No. 6,800,910 to Lin et al. (hereinafter Lin) and claims 17 and 19 – 22 were rejected under 35 U.S.C. §102(e) for being anticipated by U.S. Patent No. 6,815,738 to Rim (hereinafter Rim). These rejections are respectfully traversed.

To anticipate a claim, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. MPEP § 2131. Applicants submit that neither Lin nor Rim show all of the features of the claimed invention.

*Independent Claim 17 over Lin*

In particular, the claimed invention is directed to a semiconductor device having a strained Si film vertically oriented. Claim 17, for example, recites, in part:

a channel having a fin of strained Si vertically oriented on a non-conductive substrate;  
a gate comprising at least one of an oxide and a high k material formed on a first side, a second side and a top of the strained Si film;  
a poly silicon layer adjacent the at least one of an oxide and a high k material formed on the first side, the second side and the top of the strained Si film; and  
an oxide layer formed partially on the poly silicon layer.

These features are not shown in Lin. In Lin, a poly silicon layer is adjacent an oxide or high k material formed on the first side, second side and top of a strained Si film. However, there is no oxide layer formed on the poly silicon layer. More specifically, referring to Figure 3 of Lin, for example, a silicon on insulator device is comprised of a poly silicon layer (38) adjacent an oxide or high k material (36) formed on a first side, second side and top of the strained Si film (34). However, Lin does not disclose an oxide layer on the poly silicon layer, as recited in claim 17. Therefore, Lin does not contain each and every element of the claim, and does not anticipate the claimed invention.

*Dependent Claims 18, 19 and 22 over Lin*

Applicants respectfully submit that claims 18, 19 and 22 depend from a distinguishable independent claim, and are allowable based upon the allowability of the independent claim. Accordingly, Applicants respectfully request that the rejection over claims 17 – 19 and 22 be withdrawn.

*Independent Claim 17 over Rim*

The features of claim 17, and in particular, an oxide layer on the poly silicon layer, is not shown in Rim. Instead, Rim shows a poly silicon layer adjacent an oxide or high k material formed on the first side, second side and top of a strained Si film. But there is no oxide layer on the poly silicon layer.

More specifically, referring to Figure 2G of Rim, for example, a strained material strip is comprised of a poly silicon layer (420, 820) adjacent the at least one of an oxide and a high k material (310, 810) formed on a first side, second side and top of the strained Si film (100). However, Rim does not disclose an oxide layer on the poly silicon layer, as recited in claim 17.

Therefore, Rim does not contain each and every element of the claim, and does not anticipate the claimed invention.

*Dependent Claims 18, 19 and 22 over Rim*

Applicants respectfully submit that claims 18, 19 and 22 depend from a distinguishable independent claim, and are allowable based upon the allowability of the independent claim. Accordingly, Applicants respectfully request that the rejection over claims 17, 19 and 22 be withdrawn.

*Newly Added Claims*

Claims 22-26 are added for the Examiner's consideration. Claims 22-25 are dependent claims, depending from a distinguishable base claim. Claim 26 is an independent claim, which Applicants submit is also a distinguishable claim.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 09-0458.

Respectfully submitted,  
Huilong ZHU

A handwritten signature in black ink, appearing to read 'Andrew M. Calderon', is written over a horizontal line.

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